

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MAINE

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| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Civil No. |
| |) | |
| CAROL EAST PALESKY, individually, |) | |
| d/b/a East Accounting Associates, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

COMPLAINT FOR PERMANENT INJUNCTION

This is a civil action brought by the United States to permanently enjoin Defendant Carol East Palesky from preparing federal income tax returns, amended federal income tax returns and other related documents and forms for others; representing customers before the IRS; and advising, assisting, counseling, or instructing anyone about the preparation of a federal tax return.

Jurisdiction

1. This action has been requested by the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General, pursuant to 26 U.S.C. §§ 7401, 7402(a), and 7407.
2. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. §§ 7401, 7402(a), and 7407.
3. Ms. Paleksy resides in and operates a business, East Accounting Associates, in Sagadahoc County, Maine, within the jurisdiction of this Court.

Facts Common to All Counts

4. Ms. Palesky prepares or assists in the preparation of individual federal income tax returns for other people for compensation.

5. Ms. Palesky operates a business that provides tax return preparation and other accounting services under the name East Accounting Associates.

6. For tax years 2003 through 2005, Ms. Paleksy prepared or assisted in preparing federal tax returns for customers using various preparer identification numbers and without signing her name to some of the returns which she prepared. Accordingly, the Internal Revenue Service (“IRS”) cannot quantify the exact number of tax returns prepared by Ms. Paleksy.

7. The returns that Ms. Palesky prepares or assists in preparing for customers contain inflated and false deductions and credits, including itemized Schedule A deductions, business expenses, capital losses and education credits. The customers are not entitled to these deductions, and Ms. Paleksy knows that the tax returns she prepares contain false information that result in tax understatements.

8. Ms. Palesky’s actions cause harm to the United States and to the public.

9. The IRS has issued erroneous refunds based on fraudulent returns prepared by Ms. Palesky and has then had to audit Ms. Palesky’s customers and take collection action to attempt to recoup the money.

10. The IRS has spent considerable time and resources auditing returns prepared by Ms. Palesky and collecting the taxes owed and erroneous refunds paid.

11. Ms. Paleksy has also harmed her customers because they pay Ms. Palesky to prepare these fraudulent returns, and, after the fraud is detected, are responsible for paying all taxes, interest, and penalties.

14. In August 2006, Ms. Palesky was sentenced to serve sixteen months in prison after pleading guilty to one count of theft by misapplication after taking funds from one of her business's clients.

**Count I:
Injunction Under 26 U.S.C. § 7407 for Violation of 26 U.S.C. §§ 6694 and 6695**

15. The United States incorporates by reference the allegations in paragraphs 1 through 14.

16. A court is authorized to issue an injunction if an income tax return preparer engages in conduct subject to penalty under 26 U.S.C. § 6694 or § 6695, pursuant to 26. U.S.C. § 7407.

17. Section 6694(a) penalizes a tax return preparer if (1) the preparer prepares a return or claim for refund that includes an understatement of liability due to a position for which there is not a realistic possibility of being sustained on the merits; (2) the preparer knew (or reasonably should have known) of such position; and (3) the position was not disclosed in accordance with 26 U.S.C. § 6662(d)(2)(B)(ii) or was frivolous.

18. Section § 6694(b) penalizes a tax return preparer who prepares a return or claim with an understatement of liability (1) in a willful attempt to understate the liability or (2) with a reckless and intentional disregard of rules or regulations.

19. Section § 6695 penalizes a tax return preparer who does not sign her name to tax returns she prepares or who fails to comply with the provisions of § 6109(a)(4) with respect to the furnishing of an identifying number of a return preparer.

20. Ms. Palesky's conduct as described above is subject to penalty under §§ 6694(a), 6694(b) and 6695.

21. Ms. Palesky has prepared income tax returns that include understatements of her customers' liability which had no realistic possibility of being sustained on the merits; Ms. Palesky knew or reasonably should have known about these understatements; Ms. Palesky did not disclose them in accordance with 26 U.S.C. § 6662(d)(2)(B)(ii); and such understatements are frivolous. Ms. Palesky has thus engaged in conduct subject to penalty under § 6694(a).

22. Ms. Palesky prepares returns for customers with false entries in a willful attempt to understate the customers' liability or with a reckless and intentional disregard of rules and regulations. Ms. Palesky has thus engaged in conduct subject to penalty under § 6694(b).

23. Ms. Palesky did not sign all of the tax returns she prepared and has used various preparer identification numbers on returns that she has prepared. Ms. Palesky has thus engaged in conduct subject to penalty under § 6695.

24. Ms. Palesky has continually and repeatedly engaged in conduct that violates §§ 6694 and 6695. An injunction merely prohibiting Connor from engaging in conduct subject to penalty under §§ 6694 and 6695 would not be sufficient to prevent her interference with the proper administration of the tax laws. Accordingly, Ms. Palesky should be permanently enjoined from acting as an income tax return preparer.

**Count II:
Injunction under I.R.C. § 7402(a) for Unlawful Interference
with Enforcement of the Internal Revenue Laws
and Appropriateness of Injunctive Relief**

25. The United States incorporates by reference the allegations in paragraphs 1 through 24.

26. A court is authorized to issue orders of injunction as may be necessary or appropriate to enforce the internal revenue laws, pursuant to 26 U.S.C. § 7402(a).

27. Section 7402(a) expressly provides that its injunction remedy is “in addition to and not exclusive of” other remedies for enforcing the internal revenue laws.

28. Ms. Paleksy, through the actions described above, has engaged in conduct that interferes substantially with the enforcement of the internal revenue laws.

29. Ms. Paleksy’s conduct causes irreparable harm to the United States and to her customers.

30. Ms. Paleksy is causing and will continue to cause substantial revenue losses to the United States Treasury, much of which may be unrecoverable.

31. If Ms. Paleksy is not enjoined, she is likely to continue to engage in conduct that interferes with the enforcement of the internal revenue laws.

32. The United States will suffer irreparable injury if Ms. Paleksy is not enjoined. This outweighs the harm to Ms. Paleksy from being enjoined from return-preparation and violating tax laws.

33. The public interest would be advanced by enjoining Ms. Paleksy because an injunction will stop her illegal conduct and the harm that conduct is causing to the United States Treasury.

WHEREFORE, the United States of America, prays for the following:

A. That the Court find that Ms. Paleksy has continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. §§ 6694 and 6695, and that, pursuant to 26 U.S.C. § 7407, an injunction prohibiting such conduct would not be sufficient to prevent Ms. Paleksy's interference with the proper administration of the tax laws and that Ms. Paleksy should be enjoined from acting as an income tax return preparer;

B. That the Court find that Ms. Paleksy is interfering with the enforcement of the internal revenue laws and that injunctive relief is appropriate to prevent the recurrence of that conduct pursuant to 26 U.S.C. § 7402(a) and the Court's inherent equity powers;

C. That this Court, pursuant to 26 U.S.C. § 7407, enter a permanent injunction prohibiting Ms. Paleksy, individually, and doing business under the name East Accounting Associates, or under any other name or using any other entity, and her representatives, agents, servants, employees, attorneys, and all persons in active concert or participation with her, from directly or indirectly acting as a federal income tax return preparer;

D. That this Court, pursuant to 26 U.S.C. § 7402(a), enter a permanent injunction prohibiting Ms. Paleksy, individually and doing business under the name East Accounting Associates, or under any other name or using any other entity, and her representatives, agents,

servants, employees, attorneys, and those persons in active concert or participation with her, from directly or indirectly:

1. Preparing or assisting in the preparation of any federal tax return for anyone other than herself;
2. Advising, counseling, or instructing anyone about the preparation of a federal tax return;
3. Owning, managing, controlling, working for, or volunteering for a tax-return-preparation business;
4. Representing customers in connection with any matter before the IRS; and
5. Engaging in other similar conduct that substantially interferes with the administration and enforcement of the internal revenue laws.

E. That this Court, pursuant to 26 U.S.C. § 7402(a), require Ms. Palesky at her own expense to contact by mail all customers for whom she has prepared federal tax returns or assisted in preparing tax returns, and send them a copy of this Complaint and the permanent injunction order, and to certify to the Court within eleven days of entry of the permanent injunction that she has complied with this provision;

F. That this Court require Ms. Paleksy to provide the United States with a list of everyone for whom she has prepared (or helped to prepare) a federal tax return for the years 2003-2005 and set forth on said list all of the names, addresses, e-mail addresses, telephone numbers, and social security numbers of the customers.

G. That this Court permit the United States to conduct post-judgment discovery to ensure Ms. Palesky's compliance with the permanent injunction; and

H. That this Court grant the United States such other relief, including costs, as is just and equitable.

Respectfully submitted,

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United States Attorney

/s/ Lisa L. Bellamy

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